CCRB INVESTIGATIVE RECOMMENDATION

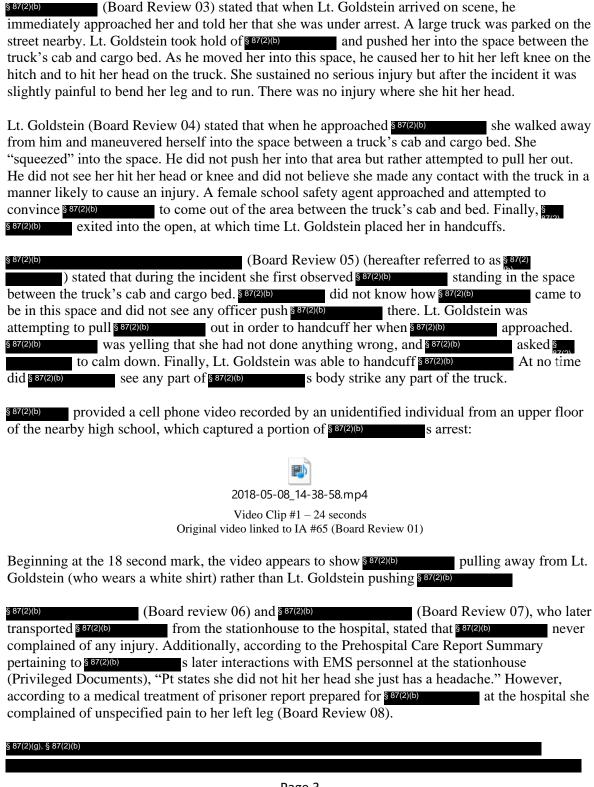
Investigator:	Team:	CCRB Case #:	▼ Force	☑ Discourt.	☐ U.S.
Samuel Ross	Squad #13	201709640	✓ Abuse	O.L.	☐ Injury
Incident Date(s)	Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
Monday, 11/13/2017 1:32 PM	Outside of §87(2)(b) 113th Precinct Statio	Outside of § 87(2)(b) ; 113th Precinct Stationhouse § 87(2)(b)		5/13/2019	5/13/2019
Date/Time CV Reported	CV Reported At:	How CV Reported	: Date/Time	Received at CC	RB
Mon, 11/13/2017 6:40 PM	IAB			M	
Complainant/Victim	Type Home Add	lress			
Witness(es)	Home Add	luo na			

Witness(es)		Home Ad	dress	
Subject Officer(s)	Shield	TaxID	Command	
1. Officers				
2. LT David Goldstein	00000	932721	113 PCT	
3. POM Christophe Costello	03459	954671	113 PCT	
4. POM Tyler Schultz		962092	113 PCT	
Witness Officer(s)	Shield No	Tax No	Cmd Name	
1. POF Shayna Robinson	22658	962739	113 PCT	
2. POM Hector Rodriguez	05774	963723	113 PCT	
3. POM Raul Gabriel	24097	936630	113 PCT	
4. POF Margarita Barahona	18563	958286	113 PCT	
5. POM Joseph Paige	19528	955288	113 PCT	
6. POF Lynn Dilieto	22211	952687	113 PCT	
7. SGT Charisse Jenkins	01620	940201	113 PCT	
8. POF Alicia Commisso	08921	954660	113 PCT	
Officer(s)	Allegation			Investigator Recommendation
A.LT David Goldstein	Force: Outside	e of § 87(2)(b)	in Queens,	
	Lieutenant Da		sed physical force against	
DIED HOUSE	§ 87(2)(b)	cs 97/2)/b)		
B.LT David Goldstein	Force: Outside		in Queens, sed physical force against	
	§ 87(2)(b)	via Golastein a	sea physical force against	
C.POM Christophe Costello	Force: Outside		in Queens,	
			ostello used physical force	
D DOM Chairteath a Contaille	against § 87(2)(b)		•	
D.POM Christophe Costello		Outside of ^{§ 87(2)(b} e Officer Christ	opher Costello spoke	
	discourteously		or and the second secon	
E.POM Christophe Costello			stationhouse, Police Officer	
	Christopher C	ostello used phy	ysical force against § 87(2)(b)	
F.POM Christophe Costello	Discourtson: A	at the 112th Dro	cinct stationhouse, Police	
r.FOW Christophe Costeno			spoke discourteously to	
	§ 87(2)(b)			
G.POM Christophe Costello			stationhouse, Police Officer	
	•		ed to arrest individuals.	
H.POM Christophe Costello			cinct stationhouse, Police spoke discourteously to	
	individuals.	opiler costello	spone discourted using to	
I. Officers			stationhouse, officers did not	
		l treatment for §	87(2)(b)	
J.POM Tyler Schultz	Discourtesy: A		, Police	
	Officer Tyler S	Schultz acted di	scourteously toward § 87(2)(b)	

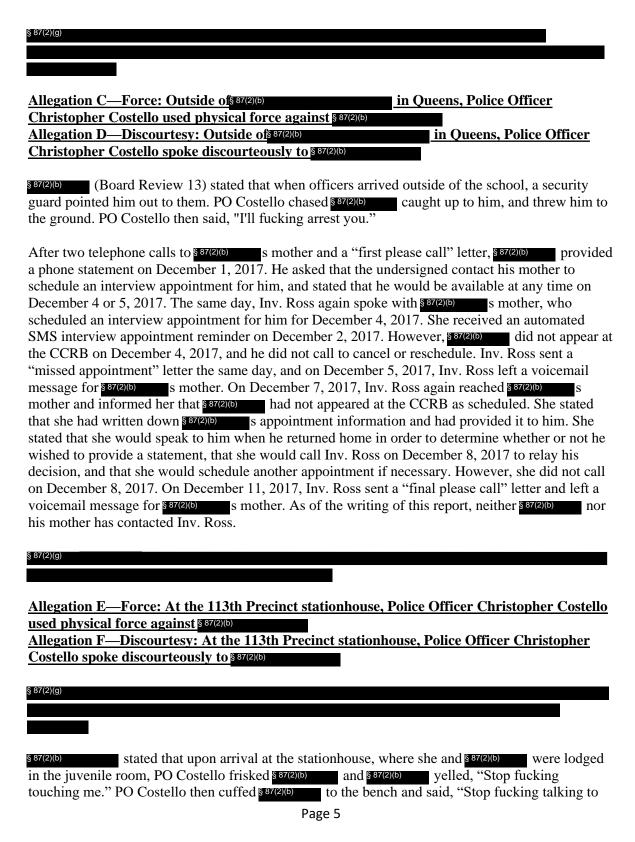
Case Summary

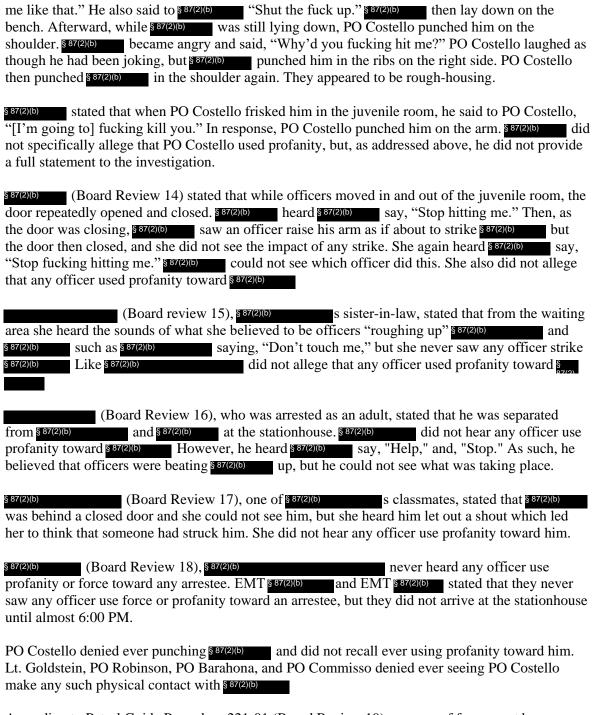
filed this complaint on behalf of his cousin, § 87(2)(b) November 15, 2017. He filed with IAB, generating original log #17-45062. The log was then forwarded to the CCRB, where it was received on November 20, 2017. On November 13, 2017, at approximately 1:32 PM, numerous officers from the 113th Precinct. including Lt. David Goldstein, PO Christopher Costello, and PO Shayna Robinson, responded to the vicinity of § 87(2)(b) where a fight had occurred. On the basis of information which §87(2)(6) provided to Lt. and § 87(2)(b) who were both Goldstein, officers arrested § 87(2)(b) juveniles, for \$87(2)(b) . PO Costello also arrested a third individual, § 87(2)(b) for § 87(2)(b) s arrest, Lt. Goldstein pushed her against a truck (Allegation During the course of § 87(2)(b) A: Force, \$37(2)(9) and then lifted her into an RMP via the open window, causing her to strike her head on the door frame (Allegation B: Force, \$87(2)(9) Meanwhile, PO Costello took to the ground and said, "I'll fucking arrest you" (Allegation C: Force, \$87(2)(9) ; Allegation D: Discourtesy, § 87(2)(9) and § 87(2)(6) were then transported to the 113th Precinct stationhouse, where they were lodged in the juvenile room. There, PO Costello punched \$37(2)(5) (Allegation E: Force, "Stop fucking talking to me like that," and, "Shut the fuck up" (Allegation F: Discourtesy, § 87(2)(9) s family members, including her mother, § 87(2)(b) and several of and § 87(2)(b) s juvenile classmates visited the stationhouse to inquire about the arrests. PO Costello used the word "fuck" when addressing their classmates (Allegation G: and threatened to arrest them (Allegation H: Abuse of Authority, Discourtesy, § 87(2)(g) § 87(2)(g) An unidentified individual had earlier informed § 87(2)(b) that § 87(2)(b) had had a seizure while in police custody. Beginning at approximately 1:30 PM, \$87(2)(b) requested numerous times that officers obtain medical treatment for §87(2)(b) However, officers did not call for an ambulance until nearly 6:00 PM (Allegation I: Abuse of Authority, § 87(2)(9) was transported to a hospital, where PO Tyler Schultz of the 113th Precinct, her escort officer, lightly smacked her on the head (Allegation J: Discourtesy, \$87(2)(9) The investigation obtained two cell phone videos from the scene of the arrests (Board Review 01 and 02). **Findings and Recommendations** Allegation A—Force: Outside of §87(2)(b) in Queens, Lieutenant David Goldstein used physical force against § 87(2)(b)

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§ 87(2)(g)
Allegation B—Force: Outside of [Se7(2)(b)] in Queens, Lieutenant David Goldstein used physical force against [Se7(2)(b)]
stated that after she was handcuffed, Lt. Goldstein brought her to a marked vehicle. Lt. Goldstein tried to open the door but found it locked. The officers then attempted to place into the vehicle via the open rear passenger's side window, headfirst. Lt. Goldstein with his hands below her armpits and then pushed her through the window from the outside. As he did so, the left side of \$87(2)(b) s forehead struck the upper part of the window frame.
Lt. Goldstein, PO Costello (Board Review 09), PO Robinson (Board Review 10), PO Margarita Barahona of the 113 th Precinct (Board Review 11), and PO Alicia Commisso of the 113 th Precinct (Board Review 12) stated that after \$87(2)(b) was placed inside of an RMP via an open rear door, and without incident, she attempted to escape through an open window. The officers had to pull her back inside. They denied that she struck her head as they pulled her back into the vehicle. \$87(2)(b) also stated that \$87(2)(b) attempted to exit the RMP via a window and that the officers returned her to the RMP without causing any contact likely to result in injury.
provided a second cell phone video, also recorded by an unidentified individual, and which captured another portion of \$87(2)(b) s arrest:
2018-05-08_15-01-22.mp4
Video Clip #2 – 22 seconds Original video linked to IA #66 (Board Review 02)
Beginning at the 9 second mark, this video clips captures [887(2)(b)] extending her head and shoulders out of the rear driver-side window of a marked SUV as numerous officers gather around her. She screams in protest of her arrest. The video does not show whether or not she struck her head on the window frame.
As noted above, the Prehospital Care Report Summary (Privileged Documents) states, "Pt states she did not hit her head she just has a headache."
§ 87(2)(g), § 87(2)(b)
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According to Patrol Guide Procedure 221-01 (Board Review 19), any use of force must be reasonable given the circumstances.

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§ 87(2)(g)
Allegation G—Abuse of Authority: At the 113th Precinct stationhouse, Police Officer Christopher Costello threatened to arrest individuals. Allegation H—Discourtesy: At the 113th Precinct stationhouse, Police Officer Christopher Costello spoke discourteously to individuals.
stated that a group of \$87(2)(b) s school friends, who visited the stationhouse to inquire about the arrests, asked PO Costello about \$87(2)(b) s status. In response, PO Costello used profanity. He made statements to the effect of, "He's fucking arrested," "He's staying in fucking jail," and, "Don't fucking worry about it." \$87(2)(b) did not remember PO Costello's exact statements but was sure that he used the word "fuck" multiple times for emphasis. PO Costello also told \$87(2)(b) s friends that he could arrest them. The group was loud, but \$100 did not see them ever behave in a manner which she believed could have led to their arrests. In response to PO Costello's remarks, \$87(2)(b) s became upset and chastised PO Costello for speaking to the juveniles in this manner. Afterward, \$87(2)(b) s friends continued to behave loudly, prompting \$87(2)(b) to ask them to leave for fear that officers would remove them all from the stationhouse.
Although \$87(2)(b) was ultimately uncooperative with the CCRB investigation, in his original complaint to IAB he stated that an unspecified officer said of a group of \$87(2)(b) s friends, "I don't give a fuck if I have to lock them all up." \$87(2)(b) stated that from inside of the juvenile room, she heard an officer say to her friends, "You all need to fucking leave," and that if they did not leave, they could be arrested. \$87(2)(b) stated that officers complained that the group of juveniles making noise and blocking the waiting area. She also stated that PO Costello said of the group of juveniles, "I don't give a fuck if they go to jail."
stated that she left the stationhouse for approximately fifteen minutes in order to visit a store across the street. When she returned, officers were repeatedly telling a group of

stated that she did not hear any officer use profanity toward her or her schoolmates, or tell them that they could or would be arrested. However, after she briefly exited the stationhouse to speak with other friends who did not come inside, she heard someone in the waiting area asking an officer, "How could you talk to a kid like that?" She did not hear what had been said to prompt this reaction and did not remember which officer was involved. Str(2)(b) was aware that his schoolmates visited Str(2)(b) at the stationhouse, but he did not hear any officer speak to them.

could or would be arrested, or use profanity toward them.

s school friends to calm down. §87(2)(b) never heard any officer tell them that they

The investigation was unable to obtain statements from any of the other juveniles present at the stationhouse (Board Review 20). Believed to be among them were \$87(2)(b) and \$87(2)(b) in addition to other, unidentified individuals.

EMT \$57(2)(b) stated that as they attended to \$57(2)(b) the crowd in the waiting area was very loud. EMT \$57(2)(b) stated that their volume made it difficult for him to perform his duties. EMT \$57(2)(b) went out to the waiting area and asked the crowd gathered there to calm down. Both EMTs stated that officers asked members of the crowd to lower their volume multiple times, and that the crowd members did not adjust their volume. Neither EMT recalled if any officer told any of the crowd members that they could or would be arrested for any reason. They also did not see any officer use profanity toward anyone in the waiting area.

According to PO Costello, the crowd members gathered in the stationhouse waiting area became boisterous and began to yell. Someone informed PO Costello that the desk sergeant had told the members of the crowd that if they continued to behave that way, they would need to leave. PO Costello did not remember who told him this and did not recall which sergeant was at the desk. Further, each time PO Costello walked by the lobby on his way from the juvenile room to the arrest processing area, the members of the crowd would yell at him, including using obscenities. PO Costello approached and told them that if they continued to act in this manner, they would be escorted out, and that if they refused to leave, they would be arrested. PO Costello believed they could have been arrested for disorderly conduct if they refused to depart. PO Costello did not recall if he was generally addressing the entire group or any specific individual or individuals. PO Costello did not recall ever using profanity toward any member or members of the crowd.

The relevant 113th Precinct command log pages (Board Review 21) reveals that Sgt. Charisse Jenkins (formerly Sgt. Gonzalez) was at the desk when the arrestees arrived at the stationhouse. However, Sgt. Jenkins (Board Review 22) did not recall the incident in question.

Lt. Goldstein, PO Barahona, and PO Robinson each stated that the individuals gathered in the stationhouse waiting area behaved loudly. However, they did not see PO Costello inform any of these individuals that they could or would be arrested, or use profanity toward them. Lt. Goldstein, for his part, stated that he politely told a loud group of juveniles that they needed to leave the stationhouse. He believed that they departed upon his request. PO Commisso, who resumed patrol shortly after transporting [87(2)(6)] to the stationhouse, did not know if a group of civilians

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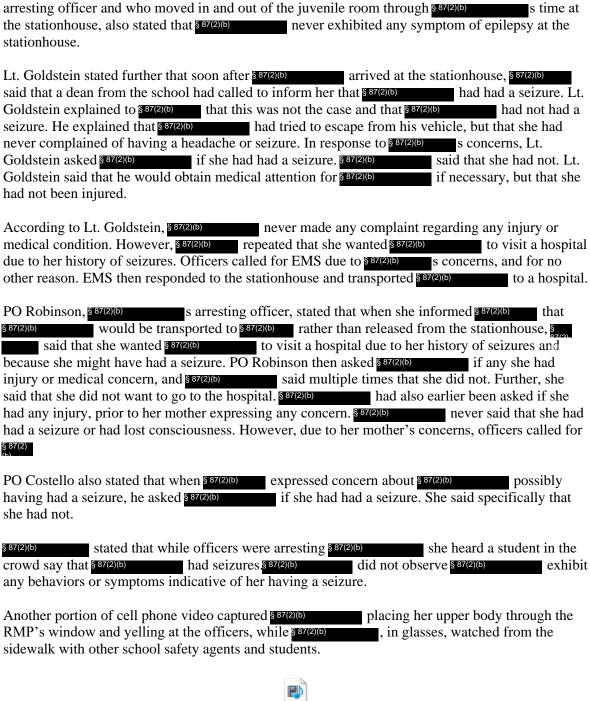
visited the stationhouse, and she did not witness any interaction between PO Costello and any group of civilians in the stationhouse lobby.

According to NYS PL 240.20 (Board Review 23), an individual is guilty of disorderly conduct when he or she makes unreasonable noise with intent to cause public inconvenience, annoyance, or alarm.

§ 87(2)(g)
§ 87(2)(g)
Allegation I—Abuse of Authority: At the 113th Precinct stationhouse, officers did not obtain
medical treatment for §87(2)(b)
stated that between 1:00 PM and 1:30 PM, she received a phone call from an
unidentified juvenile, who told her that police officers were arresting \$87(2)(6) near her
school. \$87(2)(b) never learned with whom she was speaking. An adult female then said to \$27(2) is having a seizure in the back of the car." In the background, a juvenile
yelled that someone "threw" \$87(2)(b) in the back of the car and that she struck her head.
also heard juveniles yelling, "You have to take her to the hospital." \$87(2)(6) asked,
"They're not taking her to the hospital?" Someone said, "I don't know. We'll call you back."
asked who was on the phone and a juvenile said only that it had been a teacher. The call then
ended.
This was all of the information which \$87(2)(b) received via telephone. She was not familiar with
any of the juveniles or the adult with whom she had spoken, and she never learned their identities.
had been diagnosed with epilepsy at age two and had been on epilepsy medication
until eighteen months prior to the incident. She had been taken off of the medication because she
had not had a seizure for four years as of the date of the incident in question.

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visited the 113 th Precinct stationhouse with several family members and her home health aide. They arrived at the stationhouse at approximately 1:30 PM. \$87(2)(b) was already in the juvenile room. Through the open door, \$87(2)(b) asked \$87(2)(b) if she was okay, and she nodded. She did not appear to be seizing at that time and never appeared to seize at the stationhouse. However, she wore a facial expression which \$87(2)(b) recognized from previous seizures. \$87(2)(b) was unable to describe the expression, but it confirmed for her that had had a seizure.
identified herself to Lt. Goldstein as \$87(2)(b) s mother. She informed him that she wanted \$87(2)(b) to receive medical attention at a hospital because she had had a seizure. Lt. Goldstein said that to his understanding there was nothing wrong with \$87(2)(b) but that he would look into the matter.
For the next several hours, \$87(2)(b) remained at the stationhouse. Throughout this time she repeatedly expressed to Lt. Goldstein and the other officers present that she wanted \$87(2)(b) remained in the juvenile room for several hours without receiving any medical attention. \$87(2)(b) was upset by this delay.
Finally, at approximately 6:00 PM, PO Robinson informed \$87(2)(b) that an ambulance was en route. EMS personnel arrived at the stationhouse and attended to \$87(2)(b) in the juvenile room. \$87(2)(b) did not have any opportunity to speak with the EMS personnel. The EMTs then transported \$87(2)(b)
As addressed above, \$87(2)(b) stated that during the course of her arrest she hit her head on an RMP's window frame. Then, when she was placed in the rear of the RMP, a teacher, who might have been named \$87(2)(b) make a remark either about \$87(2)(b) having a seizure or being at risk for seizures.
did not know if she was having a seizure at that time. She stated that her memory went blank and that she did not recall being transported to the stationhouse. The last thing she remembered was the police vehicle pulling away from the school.
stated that the next thing she remembered was sitting on a bench near the desk at the 113 th Precinct stationhouse with \$87(2)(b) and \$87(2)(b) She had a headache. At the time of her CCRB interview she believed that she had had a seizure, but at the time she did not know what had happened to her. Memory loss was a typical symptom of her seizures, but she did not make this connection at the time. Subsequently, as \$87(2)(b) waited in the juvenile room, she heard her mother yell that she needed to go to a hospital. \$87(2)(b) never told any officer that she needed medical assistance.
Lt. Goldstein, PO Robinson, PO Commisso, and PO Costello stated that they never heard anyone at the scene of the arrest make any mention of \$87(2)(b) having a seizure or seizure condition. Further, Lt. Goldstein, PO Robinson, and PO Commisso, who transported \$87(2)(b) from the scene of her arrest to the stationhouse, each stated that \$87(2)(b) yelled angrily at them throughout her transport to the stationhouse, and that she never appeared to seize, lose consciousness, or suddenly become quiet. These officers and PO Costello, who was \$87(2)(b) s
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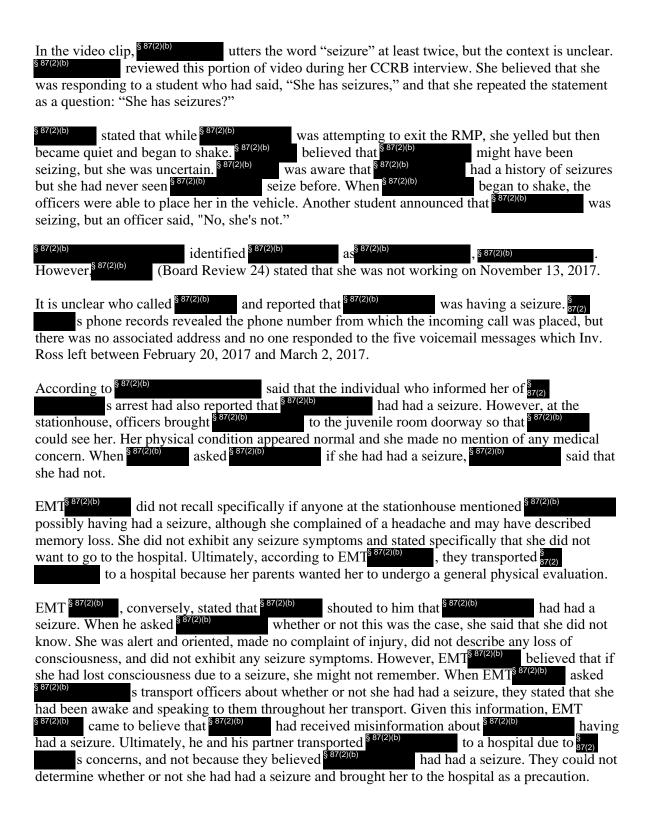




2018-05-10 9-03-06.mp4

Video Clip #3 – 30 seconds Original video linked to IA #66 (Board Review 02)

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The Prehospital Care Report Summary pertaining to the EMT's interaction with \$87(2)(b) reveals that EMS responded to the stationhouse at 5:53 PM. The document reads, "Pt states she has a headache and her mother wants her to get checked out. Pt states she did not hit her head she just has a headache." There is no mention of \$87(2)(b) having had a seizure.
According to medical records from \$37(2)(b) stated to medical staff, "I think I had a seizure on the way to the precinct." \$7,000 also informed medical staff that she had struck her head multiple times during the course of her arrest. Lastly, the medical records state that while the officer present with \$7,000 at the hospital was not present for her arrest, he reported that his fellow officers had witnessed no seizure-like behavior. The medical records do not clearly establish whether or not \$7,000 had a seizure while in police custody. Ultimately, she was prescribed a seizure medication and discharged.
The three officers who transported \$\frac{87(2)(0)}{2}\$ stated that she screamed in protest of her arrest while still on scene. Only \$\frac{87(2)(0)}{2}\$ stated that she actually saw \$\frac{87(2)(0)}{2}\$ appear to have a seizure. Further, it is undisputed that \$\frac{87(2)(0)}{2}\$ exhibited no seizure symptoms at the stationhouse and that she never told anyone at the stationhouse that she needed medical assistance. According to \$\frac{87(2)(0)}{2}\$ said specifically that she had not had a seizure. Both officers and EMTs stated that she made no medical complaint and specifically did not want to go to a hospital. Further, the EMTs stated that they transported her to a hospital due to mother's concerns and not because they determined that she had had a seizure. At the hospital, \$\frac{87(2)(0)}{2}\$ complained that she had hit her head. However, she had described no injury to the EMTs, suggesting that this was the first time she claimed to have done so. As established above, \$\frac{87(2)(0)}{2}\$ was not credible about having attempted to escape from the officers' vehicle, lessening her overall credibility. By contrast, the officers were generally forthcoming about their activities throughout the incident. Most importantly, their testimonies with respect to this allegation were consistent with those of the EMTs.
It is undisputed that \$87(2)(b) remained at the stationhouse for several hours before officers called for an ambulance. \$87(2)(9)
Allegation J—Discourtesy: At §87(2)(b) , Police Officer Tyler Schultz acted discourteously toward §87(2)(b)

PO Sc	stated that at the hospital, w PO Schultz said, "Hey, I'm talking to hultz "smacked" [87(2)(6) light ed nonetheless that PO Schultz did no	tly on the head. It was not forceful, b	ll did not respond.			
§ 87(2)(g)						
	<u>Civilian :</u>	and Officer CCRB Histories				
•			ū			
•	• PO Costello has been a member of service for four years and has been a subject in one prior complaint with two allegations, neither of which were substantiated (Board Review 27). [887(2)(9)]					
	Mediation, (Civil and Criminal Histories				
• • · · · · · · · · · · · · · · · · · ·		mediation. York City Office of the Comptroller leads to this complaint (Board Review)				
Squad	No.:					
Investi	igator:Signature	Print Title & Name	Date			
Squad	Leader:					

	Signature	Print Title & Name	Date
Reviewer:			
	Signature	Print Title & Name	Date